

Bureau of Land Management, Interior

§ 2911.1

Group 2900—Use; Leases and Permits

PART 2910—LEASES

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AUTHORITY: 49 U.S.C. App., 211-213, 43 U.S.C. 869 *et seq.* 48 U.S.C. 360, 361, unless otherwise noted.

Subpart 2911—Airport

AUTHORITY: 49 U.S.C. 211; 43 U.S.C. 1701 *et seq.*

SOURCE: 51 FR 40809, Nov. 10, 1986, unless otherwise noted.

§ 2911.0-1 Purpose.

This subpart sets forth procedures for issuance of airport leases on the public lands.

§ 2911.0-3 Authority.

The Act of May 24, 1928, as amended (49 U.S.C. Appendix, 211-213), author-

izes the Secretary of the Interior to lease for use as a public airport, any contiguous unreserved and unappropriated public lands not to exceed 2,560 acres in area.

§ 2911.0-5 Definitions.

As used in this subpart, the term:

(a) *Act* means the Act of May 24, 1928, as amended (49 U.S.C. Appendix, 211-213).

(b) *Authorized officer* means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(c) *Administrator* means the Administrator of the Federal Aviation Administration.

(d) *Applicant* means any individual who is a citizen of the United States; a group or association of citizens of the United States; any corporation, organized under the laws of the United States or of any State, authorized to conduct business in the State in which the land involved is located; or a State or political subdivisions or instrumentality thereof, including counties and municipalities; who submits an application for an airport lease under this subpart.

(e) *Public airport* means an airport open to use by all persons without prior permission of the airport lessee or operator, and without restrictions within the physical capacities of its available facilities.

§ 2911.0-8 Lands available for leasing.

Any contiguous unreserved and unappropriated public lands, surveyed or unsurveyed, not exceeding 2,560 acres in area, may be leased under the provisions of the Act, subject to valid existing rights under the public land laws.

§ 2911.1 Terms and conditions.

(a) The lessee shall, within 1 year from the date of issuance of the lease, equip the airport as required by the Administrator and file a report thereof in the Bureau of Land Management District office having jurisdiction over the lands under lease.

(b) At any time during the term of the lease, the Administrator may have an inspection made of the airport, and if the airport does not comply with the

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ratings set by the Federal Aviation Administration, the Administrator shall submit a written statement describing the deficiencies to the Bureau of Land Management District office having jurisdiction over the lands under lease for appropriate action.

(c) The authorized officer may cancel, in whole or in part, a lease issued under the Act for any of the following reasons: Lessee failure to use the leased premises or any part thereof for a period of at least 6 months; use of the property or any part thereof for a purpose other than the authorized use; failure to pay the annual rental in full on or before the date due; failure to maintain the premises according to the ratings set by the Federal Aviation Administration; failure to comply with the regulations in this part or the terms of the lease.

(d) Leases under the Act shall be for a period not to exceed 20 years and may be renewed for like periods.

(e) Annual rental for leases to any citizen of the United States, any group or association of citizens, or any corporation organized under the laws of the United States or any State shall be at appraised fair market rental, with a minimum annual rental payment of \$100. State or political subdivisions thereof, including counties and municipalities, shall pay to the lessor an annual rental calculated at the appraised fair market value of the rental of the property less 50%, with a minimum annual rental payment of \$100. In fixing the rentals, consideration shall be given to all pertinent facts and circumstances, including use of the airport by government departments and agencies. Rental of each lease shall be reconsidered and revised at 5-year intervals to reflect current appraised fair market value. The first annual rental payment shall be made prior to issuance of the lease. All subsequent payments shall be paid on or before the anniversary date of issuance of the lease.

(f) The lessee shall agree that all departments and agencies of the United States operating aircraft shall have free and unrestricted use of the airport and, with the approval of the authorized officer, such departments or agencies shall have the right to erect and

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install therein such structures and improvements as are deemed advisable by the heads of such departments and agencies. Whenever the President may deem it necessary for military purposes, the Secretary of the Army may assume full control of the airport.

(g) The lessee shall submit to the Administrator for approval regulations governing operations of the airport.

§ 2911.2 Procedures.

§ 2911.2–1 Preapplication activity.

Persons seeking to lease public lands under this subpart shall first consult with the authorized officer in the District or Resource Area Office in which the lands are located. Such consultation is necessary to determine land availability and conformity of proposed use with approved land use plans, explain associated statutory and regulatory requirements, familiarize the potential applicant with respective management responsibilities, set forth the application processing procedures for the proposed action, and identify potential conflicts. Upon completion of the consultation, persons seeking to lease public lands for a public airport may submit an application for consideration by the authorized officer.

§ 2911.2–2 Applications.

(a) Each application shall clearly describe the lands applied for by legal subdivisions and/or by metes and bounds and contain a plan of development and use signed by the applicant or by a duly authorized agent or officer of the applicant. When required by the authorized officer, the application shall include copies of the appropriate State, county, or municipal airport licenses or permits, as well as such additional States and local clearances as may be required.

(b) Each application shall be accompanied by a non-refundable filing fee of \$100. Each applicant shall also be required to pay the cost of publication of a Notice of Realty Action in the FEDERAL REGISTER and a newspaper of general circulation in the area in which the lands are located.

(c) If approval of an application results in cancellation of a grazing permit of lease or a reduction in grazing

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acreage, the provisions of § 4110.4-2 of this title shall apply.

§ 2911.2-3 Report by Administrator; Notice of Realty Action.

(a) Upon receipt of the application, the authorized officer shall send 1 copy to the Administrator for a determination concerning what fuel facilities, lights, and other furnishings are necessary to meet the rating set by that agency. After receiving the report of the Administrator, and before making a determination to issue a lease, the authorized officer shall publish a Notice of Realty Action in the FEDERAL REGISTER and in a newspaper of general circulation in the area of the lands to be leased. The notice shall provide 45 days from the date of publication in the FEDERAL REGISTER for comments by the public. Comments shall be sent to the office issuing the notice. The notice shall not be published until the authorized officer has received the filing fee from the applicant and is satisfied that all statutory and regulatory requirements have been met.

(b) The notice of realty action may segregate the lands or interests in lands to be conveyed to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the notice of realty action shall terminate either upon issuance of a document of conveyance or 1 year from the date of publication in the FEDERAL REGISTER, whichever occurs first.

[51 FR 40809, Nov. 10, 1986; 51 FR 45986, Dec. 23, 1986]

§ 2911.2-4 Execution of lease.

Upon receipt of the payments required by § 2911.2-2(b) of this title and not less than 45 days following the publications required by § 2911.2-4 of this title, the authorized officer shall make a decision on the application and, if the application is approved, issue the lease.

[51 FR 40809, Nov. 10, 1986; 51 FR 45986, Dec. 23, 1986]

Subpart 2912—Recreation and Public Purposes Act

AUTHORITY: Recreation and Public Purposes Act, as amended (43 U.S.C. 869, *et seq.*).

SOURCE: 44 FR 43473, July 25, 1979, unless otherwise noted.

§ 2912.0-7 Cross reference.

The general requirements and procedures under the Recreation and Public Purposes Act are contained in part 2740 of this title.

§ 2912.1 Nature of interest.

§ 2912.1-1 Terms and conditions of lease.

(a) The term of leases under the Recreation and Public Purposes Act, hereafter referred to as *the Act*, shall be fixed by the authorized officer but shall not exceed 20 years for nonprofit associations and nonprofit corporations, and 25 years for Federal, State, and local governmental entities. A lease may contain, at the discretion of the authorized officer, a provision giving the lessee the privilege of renewing the lease for a like period.

(b) Leases shall be issued on a form approved by the Director, Bureau of Land Management and shall contain terms and conditions required by law, and public policy, and which the authorized officer considers necessary for the proper development of the land, for the protection of Federal property, and for the protection of the public interest.

(c) Leases shall be terminable by the authorized officer upon failure of the lessee to comply with the terms of the lease, upon a finding, after notice and opportunity for hearing, that all or part of the land is being devoted to a use other than the use authorized by the lease, or upon a finding that the land has not been used by the lessee for the purpose specified in the lease for any consecutive period specified by the authorized officer. The specified period of non-use or unauthorized use shall not be less than 2 years nor more than 5 years.

(d) Reasonable annual rentals shall be established by the Secretary of the Interior and shall be payable in advance. Upon notification of the amount

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of the yearly rental, a lease applicant shall be required to pay at least the first year's rental before the lease shall be issued. Upon the voluntary relinquishment of a lease before the expiration of its term, any rental paid for the unexpired portion of the term shall be returned to the lessee upon a proper application for repayment to the extent that the amount paid covers a full lease year or years of the remainder of the term of the original lease. Leases for recreational or historic-monument purposes to a State, county or other State or Federal instrumentality or political subdivision shall be issued without monetary consideration.

(e) Leases are not transferable except with the consent of the authorized officer. Transferees shall have all the qualifications of applicants under the Act and shall be subject to all the terms and conditions of the regulations in this part.

(f) A lessee shall not be permitted to cut timber from the leased lands without prior permission from the authorized officer.

(g) All leases shall reserve to the United States all minerals together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

§ 2912.2 Renewal of leases.

A lessee with a privilege of renewal must notify the authorized officer at least 180 days before the end of the lease period that it will exercise the privilege.

§ 2912.3 Substitution of a new lease.

A lessee may apply for a new lease at any time. Applications for new leases shall be accompanied by consent of the lessee to cancellation of the existing lease upon the issuance of the new lease and by three copies of a statement showing (a) the need for a new lease and (b) any changes in the use or management of the lands or the terms and conditions of the lease which the applicant desires.

Subpart 2916—Alaska Fur Farm

SOURCE: 35 FR 9665, June 13, 1970, unless otherwise noted.

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§ 2916.0–3 Authority.

The Act of July 3, 1926 (44 Stat. 821, 48 U.S.C. secs. 360, 361), authorizes the Secretary of the Interior to lease public lands on the mainland of or islands in Alaska, with the exception of the Pribilof Islands, for fur farming, for periods not exceeding ten years.

§ 2916.0–6 Policy.

(a) The authority to lease the public lands in Alaska for fur-farming purposes was granted in order to promote the development of the production of furs in Alaska.

(b) No lease for the purpose of raising beavers will be granted on any area already occupied by a beaver colony nor will any such lease be granted on streams or lakes where the activities of beavers may interfere with the run or spawning of salmon.

(c) In order to offer more people an opportunity to lease lands, and to avoid tying up large areas of land unnecessarily, fur-farming leases on public lands will not be granted for areas greater than are justified by the needs and experience of the applicant.

§ 2916.0–8 Area subject to lease.

(a) *Acreage limitation and exceptions.*

(1) On the mainland such leases may be for an area not exceeding 640 acres. A lease may cover an entire island, provided the area thereof does not exceed 30 square miles, and provided the need for such entire island is clearly established. Islands so close together that animals can cross from one to the other and whose combined area does not exceed 30 square miles, will be treated as one island. Islands having an area of more than 30 square miles will be treated as mainland.

(2) Where a lease is granted for an area in excess of 640 acres on an island, the manager may, after notice to the lessee, reduce the area to an amount not less than 640 acres, if he determines that the lessee cannot reasonably use all of the area for which the lease was granted.

(b) *Lands subject to lease.* (1) Vacant, unreserved, and unappropriated public lands are subject to lease.

(2) Except for lands under the jurisdiction of the Fish and Wildlife Service and the National Park Service, public

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lands withdrawn or reserved for any purpose are subject to lease, if the department or agency having jurisdiction thereof consents to the issuance of the lease.

§2916.1 Terms and conditions.

§2916.1-1 Commencement of operations; stocking lands.

The lessee shall, within one year from the date of issuance of the lease, commence operations by taking possession of the leased area, and by placing thereon within that period such improvements as may be needed for such operations and as will show good faith, and shall thereafter develop the fur-farming enterprise on the leased area with reasonable diligence. The lessee shall stock the leased area with the minimum of fur-bearing animals required by the lease within the periods specified in the lease.

§2916.1-2 Rights reserved; protection of improvements and roads.

Nothing in this part or any lease issued under this part shall interfere with or prevent:

(a) The prospecting, locating, development, entering, leasing, or patenting of mineral resources in the leased area under laws applicable thereto.

(b) The use and disposal of timber or other resources on or in the leased area under applicable laws.

(c) The use and occupation of parts of leased areas for the taking, preparing, manufacturing, or storing of fish or fish products, or the utilization of the lands for purposes of trade or business, to the extent and in the manner provided by law, and as authorized by the State Director.

(d) The acquisition or granting of rights-of-way or easements under applicable laws and regulations.

(e) Hunting and fishing under applicable Federal and State hunting and fishing laws and regulations, but the authorized officer may prohibit or restrict, or he may authorize the lessee to prohibit or restrict hunting or fishing on such parts of the leased area and for such periods as he may determine to be necessary in order to prevent any substantial interference with the purposes for which the lease is issued.

§2916.2 Procedures.

§2916.2-1 Applications.

(a) *Qualifications of applicants.* Any person who is a citizen of the United States, or any group or association composed of such persons, or any corporation organized under the laws of the United States, or of any State thereof, authorized to conduct business in Alaska may file an application.

(b) *Contents of application.* An application for lease should be filed in duplicate in the proper office. No specific form of application is required, but the application should contain or be accompanied by the following:

(1) Applicant's full name, post office address, the general nature of his present business, and the principal place of business.

(2)(i) A statement of the age and of the citizenship status, whether native-born or naturalized, of the applicant, if an individual, or of each partner or member of a partnership or association. A copartnership or an association applicant shall file a copy of whatever written articles of association its members have executed.

(ii) A corporation shall file a certified copy of its articles of incorporation, evidence that it is authorized to transact business in Alaska, and a copy of the corporate minutes or resolutions authorizing the filing of the application and the execution of the lease.

(3) Description of the land for which the lease is desired, by legal subdivision, section, township, and range, if surveyed, and by metes and bounds, with the approximate area, if unsurveyed. The metes and bounds description should be connected by course and distance with some corner of the public-land surveys, if practicable, or with reference to rivers, creeks, mountains, towns, islands, or other prominent topographical points or natural objects or monuments.

(4) A statement as to the applicant's experience in and knowledge of fur farming.

(5) A statement as to the kind of fur-bearing animals to be raised, and, if foxes, the color type; the number of fur-bearing animals the applicant proposes to have on the leased land within one year from the date of the lease, and

whether it is proposed to purchase or trap the stock; and that before commencing operations of any lease which may be issued, the applicant will procure from the appropriate State game agency whatever licenses are required under Alaska law.

(6) A detailed statement of the reasons for the need for any area in excess of 640 acres but not exceeding 30 square miles, when the land applied for is comprised of an island, or islands.

(7) A statement of the nature and results of the investigation made by applicant as to whether the land and climate are suited to raising the kind of animals proposed to be stocked.

(8) A statement as to whether the land is occupied, claimed, or used by natives of Alaska or others; and, if so the nature of the use and occupancy and the improvements thereon, if any.

(9) If beavers are to be raised, a statement as to whether a beaver colony exists on the land, and whether salmon streams or lakes are on or adjacent to the land proposed to be leased.

(10) A statement that the applicant is acting solely on his own account and not under any agreement or understanding with another.

(11) The serial numbers of all other applications filed or leases obtained under this act by applicant, or applicant's spouse or business associate, or in which applicant has a direct or indirect interest.

(12) The showing as to hot or medicinal springs required by § 2311.2(a) of this chapter.

(13) All applications must be accompanied by an application service fee of \$10 which will not be returnable.

(c) *Form of lease; rental and royalty; report of annual operations.* (1) Leases will be issued on a form approved by the Director.

(2) Prior to the issuance of a lease and annually thereafter, the lessee shall pay an advance rental of \$5 per annum if the lease embraces 10 acres or less, a rental of \$25 per annum if the leased area is more than 10 acres but not more than 640 acres, and a rental of \$50 per annum if the leased area exceeds 640 acres.

(3) Within 60 days after the end of each lease year the lessee shall file with the land office a report on a form

approved by the Director, in duplicate, showing his operations under the lease and his gross receipts thereunder from the sale of live animals and pelts for the preceding lease year. The lessee shall pay, at the time of filing the report, a royalty of 1 percent of such gross receipts deducting therefrom the amount of the advance rental payment made for such preceding lease year.

§ 2916.2-2 Assignments and subleases.

A proposed assignment on a lease, in whole or in part, or a sublease, must be filed in duplicate with the proper office within 90 days from the date of its execution; must contain all of the terms and conditions agreed upon by the parties thereto; and must be supported by a statement that the assignee or sublessee agrees to be bound by the provisions of the lease. The assignee or sublessee must submit with the assignment or sublease the information or statements required by § 2916.2-1(b) (1), (2), (4), (5), (10), and (11). No assignment or sublease will be recognized unless and until approved by the authorizing officer.

(Sec. 2, 44 Stat. 822; 48 U.S.C. 361)

§ 2916.2-3 Renewal of leases.

Upon an application filed in the proper office within 90 days preceding the expiration date of the lease, if it is determined that a renewal lease should be granted, the lessee will be offered such lease by the authorized officer, upon such terms and conditions and for such duration as may be fixed, not exceeding 10 years. The filing of an application for renewal does not confer on the lessee any preference right to a renewal. The timely filing of an application will, however authorize the exclusive fur-farming use of the lands by the lessee in accordance with the terms of the prior lease pending final action on the renewal application.

§ 2916.2-4 Termination of lease; cancellation.

(a) *Action by authorized officer.* (1) The authorized officer may terminate a lease at the request of the lessee if the lessee shall make satisfactory showing that such termination will not adversely affect the public interest and

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that he has paid all charges due the Government thereunder.

(2) A lease may be canceled if the lessee shall fail to comply with any of the provisions of this part or of the lease, or shall devote the lease area primarily to any purpose other than the rearing of fur-bearing animals as authorized. No lease will be canceled until the lessee has been formally notified of such default and such default shall continue for 60 days after service of such notice.

(b) *Removal of improvements and personal property.* (1) Improvements or personal property may not be removed from the lands, except fur-bearing animals disposed of in the regular course of business, unless all moneys due the United States under the lease have been paid. The lessee shall be allowed 90 days from the date of expiration or termination of the lease within which to remove his personal property and such improvements as are not disposed of in the manner set forth in paragraph (b)(2) of this section, which he has a right to remove; if not removed or otherwise disposed of within the said period, such improvements or personal property shall become the property of the United States.

(2) Upon the expiration of the lease or the earlier termination thereof, the authorizing officer may, in his discretion and upon a written petition filed by the lessee within 30 days from the date of such expiration or termination, require the subsequent lease applicant, prior to the execution of a new lease, to agree to compensate the lessee for any improvements of a permanent nature that he may have placed upon the leased area for fur-farming purposes during the period of the lease. If the interested parties are unable to reach an agreement as to the amount of compensation, the amount shall be fixed by the authorizing officer. All such agreements to be effective, must be approved by the authorizing officer. The failure of the subsequent lessee to pay the former lessee in accordance with such agreement will be just cause for cancellation of the lease.

PART 2920—LEASES, PERMITS AND EASEMENTS

Subpart 2920—Leases, Permits and Easements: General Provisions

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AUTHORITY: 43 U.S.C. 1740.

SOURCE: 46 FR 5777, Jan. 19, 1981, unless otherwise noted.

Subpart 2920—Leases, Permits and Easements: General Provisions

§ 2920.0-1 Purpose.

The purpose of the regulations in this part is to establish procedures for the orderly and timely processing of proposals for non-Federal use of the public lands. The procedural and informational requirements set by these regulations vary in relation to the nature of the anticipated use.

§ 2920.0-3 Authority.

Sections 302, 303 and 310 of the Federal Land Policy and Management Act